

Declassified and Approved For Release 2011/12/09 : CIA-RDP10-00750R000100930001-7

Letter from Donald J. Devine
Director/OPM
To Romano L. Mazzoli
Chair/HR Perm Select Com
on Intel
Re: HR 5805
Aug 27, 1984

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Office of Personnel Management

Washington, D.C. 20415

AUG 27 1984

In Reply Refer To:

Your Reference:

Honorable Romano L. Mazzoli
Chairman
Permanent Select Committee
on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your request for the views of the Office of Personnel Management on H.R. 5805, a bill "To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to provide essential benefits to certain former spouses not eligible for any benefits under that Act, and for other purposes."

Public Law 97-269, effective November 15, 1982, amended the CIA Retirement Act to provide a portion of a retired participant's annuity and a survivor annuity to a former spouse of the retired participant, if the marriage lasted at least 10 years during creditable service and at least 5 of those years were spent overseas by the participant and the former spouse. In cases where divorce occurred before the effective date, the participant or former participant was permitted to elect to provide a survivor annuity for his or her former spouse through a reduction in the participant's annuity.

Section 1 of H.R. 5805 would further amend these provisions by providing survivor annuities to former spouses whose divorces occurred before November 15, 1982, and for whom no survivor annuity was elected. These annuities would equal the amount currently payable under section 523(c) of the Fiscal Year 1977 Foreign Relations Authorization Act (90 Stat. 847). Section 523(c) of that Act provides survivor annuities in the amount of \$2400, increased by all cost-of-living adjustments granted widows under the Foreign Service Retirement System since enactment of Public Law 89-308 on October 31, 1965. The right to an annuity would terminate upon the former spouse's remarriage before age 60, but would be restored if the remarriage terminated. These annuities would begin 120 days after enactment or, if later, the date of the participant's death or retirement, whichever comes first. However, the annuity would not be payable for any period before the former spouse submitted a written application to the Director of Central Intelligence.

Although section 1 of H.R. 5805 would not affect any programs administered by the Office of Personnel Management, and we defer to the Central Intelligence Agency as to its impact, section 1 is inconsistent with the Administration's position opposed to retroactivity of divorced spouse benefits under the Civil Service Retirement System.

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Section 2 of H.R. 5805 would provide coverage under the Federal Employees' Health Benefits (FEHB) Program to the former spouse of a participant or former participant in the CIA Retirement System if the couple's marriage lasted at least 10 years during CIA service, at least 5 years of which were spent overseas by the couple. In addition, the former spouse must have had FEHB coverage as a family member of the participant immediately before the couple's divorce. A former spouse would have to file an election to enroll in the same FEHB plan within 31 days after the divorce, and would have to pay both the employee and agency share of premiums. The Office of Personnel Management would be required to issue regulations implementing this provision and to notify, to the maximum extent possible, employees and retirees in the FEHB Program of the election rights of former spouses. In cases where divorce occurred before enactment, the former spouse would have 6 months after enactment within which to elect FEHB enrollment. The Director of Central Intelligence would be responsible for informing these former spouses of their election rights. A former spouse's right to FEHB coverage would terminate upon his or her remarriage before age 60.

The Office of Personnel Management strongly opposes section 2 of H.R. 5805, both in principle and because it would impose an extraordinary administrative burden on this agency. The provisions of section 2 are entirely irrelevant to the purpose of the FEHB Program. Employer-provided health benefits are a part of the compensation package we provide in return for an employee's services. Coverage for family members is provided as a benefit for the employees, and not to the family members. We can see no justification whatsoever to continue this employment benefit after the family relationship to the employee has been severed. Under section 2 of H.R. 5805, there would even be cases in which a former family member would be entitled to FEHB coverage although the CIA employee's coverage had ceased because he or she had left the service or had chosen not to participate in the FEHB Program.

Extending FEHB coverage to new categories of former dependents of both current and former employees--indefinitely in most cases, and without regard to alternative coverage which may be available if the former spouse is employed--far surpasses any reasonable employer responsibility. Moreover, it should not be assumed that this extension of coverage would cost the Government nothing, merely because the former spouse would pay the full premium. We would expect significant administrative expenses from the awkward administrative design of the coverage extension. In addition, this coverage extension could adversely affect the premiums that the Government and other FEHB enrollees pay, if the claims experience of those former spouses choosing to enroll in the Program proves to be high.

Moreover, many administrative problems would result from section 2 of H.R. 5805. OPM would be required to issue regulations establishing procedures for processing enrollments of former spouses. OPM would have to

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verify that a former spouse's application for enrollment was received within the time limit. (Application would have to be made within 6 months after enactment or 31 days after divorce, depending on when the divorce became final.) OPM would be required to verify that the former spouse was enrolled in FEHB as a family member immediately before the divorce, and we would have to determine the particular plan and level of coverage the former spouse had at that time.

These tasks would be very difficult for OPM to carry out, since we have no records that would enable us to make such determinations. The names of individual FEHB enrollees (other than Civil Service annuitants and the employees of OPM itself) and covered dependents are not maintained by OPM, but are instead known only by the employing agency and the carriers of the FEHB plan, or in the case of many dependents, not even by the agencies or the carriers. OPM would also have to verify that the former spouse was married to the participant during at least 10 years of his or her creditable service under the CIA Retirement System, and that at least 5 of those years were spent abroad by both the participant and the former spouse. Here again, we would not have any records that would enable us to make such determinations.

OPM would have to bill each former spouse for the combined employee and agency shares of the plan's premiums, collect the premiums, ensure that premiums are paid on a timely basis, and terminate coverage when premium payments are delinquent. Finally, OPM regulations would also have to provide for notifying all current and retired participants in the CIA Retirement System who are enrolled in FEHB of the right of former spouses to elect FEHB coverage. Unlike the CIA, OPM would be unable to provide such notice to each of these individuals, because OPM does not maintain a list of their names and addresses.

Both because of our objections in principle and because of these administrative problems, the Office of Personnel Management strongly opposes enactment of H.R. 5805.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Donald J. Devine', with a long horizontal flourish extending to the right.

Donald J. Devine
Director